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JONES DAY
222 EAST 41ST ST
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In re Application of
KARATZAS et al.
App. No.: 10/501,183
PCT No.: PCT/IB03/00346
Int. Filing Date: 13 January 2003
Priority Date: 11 January 2002
Atty. Docket No.: 9529-008-999
For: METHODS OF PRODUCING SILK POLY-
PEPTIDES AND PRODUCTS THEREOF

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: DECISION ON PETITION
:
: UNDER 37 CFR 1.10(c)
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This is a decision on applicant's "Petition to Correct Filing Date under 37 CFR 1.10(c)" filed in the United States Patent and Trademark Office (USPTO) on 22 August 2007, to accord a filing date of 07 October 2007 to the above-identified application papers. No petition fee is required.

BACKGROUND

On 13 January 2003, applicant filed international application No. PCT/IB03/00346, which claimed a priority date of 11 January 2002 and which designated the United States. The deadline for payment of the basic national fee was to expire 30 months from the priority date, or on 11 July 2004.

On 09 July 2004, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee.

On 25 August 2004, a Notification of Missing Requirements was mailed indicating, *inter alia*, that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b) was required.

On 07 October 2004, applicant filed a response to the Notification.

On 02 August 2007, a Notification of Acceptance and filing receipt were mailed to applicant indicating a filing date under 35 U.S.C. 371(c) of 07 October 2006. On 22 August 2007, applicant filed a petition under 37 CFR 1.10(c)¹ requesting a corrected filing date, and

¹ 37 CFR 1.10(c) states:

Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord

included a copy of the Customer Receipt of the "Express Mail" mailing label #EV456933018US.

DISCUSSION

A review of the application file itself reveals that applicant's response to the Notification of Missing Requirements, including a declaration executed by the inventors, was filed in the USPTO on 07 October 2004 along with authorization to charge applicant's deposit account. The declaration is acceptable and is in compliance with 37 CFR 1.497(a) and (b). Applicant's deposit account will be charged the \$130 surcharge for filing the declaration after the thirty month period.

The indication in the official USPTO record is sufficient to establish that the date of receipt of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements and the completion of all 35 U.S.C. 371 requirements was on 07 October 2004. The 02 August 2007 Notification of Acceptance erroneously indicated a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 07 October 2006. The Notification of Acceptance is hereby vacated.

A new Notification of Acceptance will be issued, indicating **07 October 2004** as the date of receipt of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements and the completion of all 35 U.S.C. 371 requirements.

CONCLUSION

Applicant's petition under 37 CFR 1.10(c) is **DISMISSED as MOOT**.

Applicant's request that the date of receipt of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements and the completion of all 35 U.S.C. 371 requirements be corrected to **07 October 2004** is **GRANTED**.

The 02 August 2007 Notification of Acceptance is hereby **VACATED**. The new Notification of Acceptance will be issued indicating the date of receipt of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements and the completion of all 35 U.S.C. 371 requirements was on **07 October 2004**.

The application is being returned to the DO/EO/US for processing in accordance with this

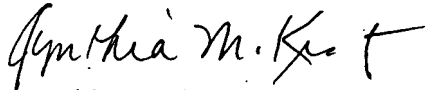
the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

- (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;
- (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and
- (3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

Application No.: 10/501,183

3

decision, including issuance of a corrected Notification of Acceptance and filing receipt.



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